

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

No.: ICC-01/18  
Date: **16 March 2020**

**PRE-TRIAL CHAMBER I**

**Before:** Judge Péter Kovács, Presiding Judge  
Judge Marc Perrin de Brichambaut  
Judge Reine Alapini-Gansou

**SITUATION IN THE STATE OF PALESTINE**

**Public**

**Prosecution's Urgent Request for Extension of Time**

**Source:** Office of the Prosecutor

**Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:**

**The Office of the Prosecutor**  
Ms Fatou Bensouda, Prosecutor  
Mr James Stewart

**Counsel for the Defence**

**Legal Representatives of the Victims**

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants**

**The Office of Public Counsel for Victims**  
Ms Paolina Massidda

**The Office of Public Counsel for the Defence**

**States Representatives**

Competent authorities of the State of Palestine

**Amicus Curiae**

As admitted by the Pre-Trial Chamber's order (ICC-01/18-63)

## **REGISTRY**

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**Registrar**

Mr Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations Section** **Other**

## Introduction

1. The Prosecution respectfully seeks a one month extension of time for the filing of its consolidated response to the observations filed in this situation relating to the Prosecutor's request for a ruling on jurisdiction under article 19(3) of the Rome Statute. This extension of time is sought due to the effect of external circumstances on the operations of the Prosecution—specifically the global pandemic of the novel coronavirus known as COVID-19—and is mirrored by similar applications in other cases and situations.

## Submissions

2. On 22 January 2020, pursuant to the order of the Pre-Trial Chamber, the Prosecutor refiled her request for a ruling on jurisdiction under article 19(3) of the Statute.<sup>1</sup> Following the Pre-Trial Chamber's invitation of 28 January 2020,<sup>2</sup> more than 40 States, groups, and experts were admitted to participate in these proceedings as *amici curiae* on 20 February 2020.<sup>3</sup> The submissions of these participants, as well as invited submissions from the legal representatives of victims and interested States, are due on the day of filing of this application. The Prosecution has been granted until 30 March 2020 to file a single consolidated response to all of these submissions, which are likely to amount to approximately 1,000-1,800 pages in total.

3. The implications of the global COVID-19 pandemic constitute good cause for the Prosecution's deadline to be extended by one month, so that it is due on 30 April 2020.

4. In particular, the Prosecution is compelled to make this application due to the 13 March 2020 decision by the Court's administrative authorities, on advice from the Host State and the Crisis Management Team, to physically close the ICC Headquarters premises from 17 March 2020 until 31 March 2020. Staff members are expected to work remotely during this time (and possibly longer if the measures are extended), and only critical staff will be authorised to access the building. On 15 March 2020, furthermore, the Court authorities informed staff that the Host State authorities had announced additional and stricter measures including the closure of schools and universities. Like other organs of the Court, and society more generally, the Prosecution is doing its best to address the disruption which has been caused. Nonetheless, it notes that staff members are already obliged by the situation to care for

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<sup>1</sup> See ICC-01/18-12.

<sup>2</sup> See ICC-01/18-14.

<sup>3</sup> See ICC-01/18-63.

children at the same time as they seek to discharge their professional obligations, and a number of staff are themselves sick or acting as primary carers from other family members who are sick. There is real potential for others to be similarly affected in the coming weeks.

5. Furthermore, although Prosecution staff are expected to work remotely from 17 March 2020, not all staff are currently able to do so because of technical restrictions on the number of Citrix licenses available. It is also anticipated that, if a large number of Court staff all work from home at the same time, technical limitations in the Court's IT system will cause disruptions in the use of servers and databases which are crucial for Prosecution staff to use to perform their work and meet the deadlines.

6. The Prosecution also respectfully notifies the Pre-Trial Chamber that the same team of lawyers (the Appeals and Prosecution Legal Coordination Section) is simultaneously engaged in the current litigation, the litigation in the *Comoros* situation also before this Pre-Trial Chamber, and the *Ntaganda* and *Gbagbo and Blé Goudé* final appeals proceedings before the Appeals Chamber. All of these cases have deadlines coming up in the next four weeks. In light of the difficulties outlined above, the Prosecution has formed the view that its current priority is to organise and rationalise its staff and resources towards meeting the deadlines in cases in which accused are presently in custody or are on conditional release (such as *Ntaganda* and *Gbagbo and Blé Goudé*). In the present situation, as no accused person would be affected by the request requested, the Prosecution believes that a one month extension for its consolidated response is reasonable in the circumstances,

7. Finally, the Prosecution notes that this application is brought before it is known whether the Court will, as a whole, decide to institute an *ad hoc* recess, or similar measures, with a view to temporarily suspending its judicial operations. If such a measure is taken, with effects similar to those requested here, then this application may be treated as moot.

### **Conclusion**

8. For all the reasons above, the Pre-Trial Chamber should find there is good cause to grant an extension of one month for the filing of the Prosecution's consolidated response, so that it is due on 30 April 2020.



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Fatou Bensouda, Prosecutor

Dated this 16<sup>th</sup> day of March 2020

At The Hague, The Netherlands